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TO: Roger M. Grimes  
FROM: Robert E. Heringer  
RE: REILLY TAR TRAP REPORT - 7/20 to 7/23  
DATE: 7/28/82

The purpose of this trip was twofold. On July 20 I and the case attorneys from D.O.J. and the state met with the firm of LeRaghy and Miller, which is under contract to provide consultation and expert testimony regarding the hydrogeological aspects of this case. On July 21 through 23 I represented the United States for the deposition of Herbert Finch, former plant manager at the Reilly Tar site.

July 20

Tim LeRaghy and his associate, O'Brien, met with Erica Bolger and David Bird from D.O.J., Marc Salt from USGS, myself, Paul Bitter and state personnel. We started out with some discussion with O'Brien. He has ~~an~~ good interest and is conversant with the mechanics whereby chemicals move through the soil. His dissertation was on the movement of soil waves and liquids, which are similar to coal tar derivatives. He has done no research on the movement of PAHs in soils, however, he is qualified to testify as to such mechanisms as an expert in the field, generally.

He explained that PAHs and other multi-ringed coal tar derivatives have a very low solubility and are adsorbed to the soils primarily. He did say that those PAHs that would be soluble

The following table gives the results of the experiments made by Mr. J. C. Goss and Mr. W. H. Dyer, at the University of Michigan, on the effect of the different methods of treatment on the growth of the larvae of *Leucania* and *Trichoplusia*. The results are given in per cent. increase or decrease over the control.

On January 1st, 1980, I started a new job at the  
University of Alberta as a Research Assistant in the  
Department of Biological Sciences. My responsibilities  
included assisting with the preparation of specimens for  
teaching and research, maintaining laboratory equipment,  
and participating in fieldwork. I also helped to coordinate  
the department's annual field trip to the Canadian Rockies.  
In addition to my work at the university, I was involved  
in several other projects. I assisted with the construction  
of a new greenhouse facility, helped to establish a  
new plant breeding program, and conducted research  
on the ecology of various plant species. I also  
participated in a study of the effects of environmental  
pollution on plant growth and development. Overall,  
I found my work at the University of Alberta to be  
very fulfilling and rewarding.

to the following is all  
that I have to say.  
The first point is that  
the author has done a  
good job in his research  
and analysis of the  
problem. He has  
provided a clear  
and concise summary  
of the literature on  
the subject. The  
organization of the  
paper is well thought  
out and follows a  
logical sequence of  
ideas. The writing  
style is clear and  
concise, making it  
easy to follow. The  
author has also  
provided a good  
bibliography at  
the end of the paper,  
which is a valuable  
addition to the work.  
Overall, I would  
recommend this paper  
as a good addition  
to the field of  
international relations.

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I think such an aspect is important. It is important that we put an on our case in that a strong way. It is also important to anticipate fully Tarr's questions and be prepared to answer them.

### Deposition of Hubert Finch 7/21 & 7/23

Dennis Cayne, from the state attorney general's office was the lead attorney on the first deposition. Steve Sloboda, David Talmudra and I assisted Dennis with the document review. Lawrence Thompson, our wood scientist drafted scores of technical questions for Dennis to ask and also was present at the deposition itself. Kelly Tor was represented by Tom Kriegel (in house counsel) and Col. Stewart Davis (from the Dowey law firm). The City of Fort Towns Park and the City of Rye were also represented by counsel. David Herd from D.O.T. was present for part of the first day of the deposition. I was there for the entire deposition. I was very impressed by the time and effort that the staff had gone to in preparation for the deposition.

The purpose of the deposition was to establish the details of the wood preserving and coal tar distillation operation; the ratios of waste disposal, leaks, spills + general housekeeping; the responsibilities of personnel up and down the ~~the~~ chain of command; and any other details of the Kelly Tor operation that could be obtained. While it is not necessary to show negligence on the part of Kelly Tor to prevail in this case, it is expected that the company will try to

convince the judge that it was a "good actor" in the past and did all that it reasonable could to avoid environmental problems. The testimony obtained from the deposition should go a long way toward refuting such a contention. I took over thirty pages of notes so I will just briefly list some of the major points:

1. Heffner stated as to the company's operation was dictated to give us a very clean idea. While Finch was site manager from 1960 to 1972, the operation was basically the same throughout the 6 years of the site.
2. Finch detailed the pathway of waste water and other materials from the processes to off the site.
3. He stated that the material was dark brown when it left the site and that at times it even went as far as the wetland near Pinhookha Creek.
4. He admitted to spills and leaks from various points in the processes, as well as from tanks and the cistern.
5. He said that some spills were cleaned up while others were just left there and are probably still there in the soil.
6. He said that any oil or waste that didn't run off the site, prior to his term as plant manager, was just dumped in an open area in ~~the~~ shallow holes dug in the north side of the site.
7. Although he said that he had a rule which called for all waste to be hauled off site, he was impeached by documents to the contrary, wherein he stated that each employee must have "broken his rule".
8. He showed documents that he had written

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to the main office in Indianapolis saying that there were problems which must be dealt with urgently, he said that he used such strong language to "get their attention", which indicates that management - by law not been responsive to the sites environmental problems

There were a number of very good points made throughout the deposition. It went three days and Dennis still is not done with his questioning. During breaks and in the evening Steve Shatner and I gave Dennis additional points and questions that needed to be asked. Dr Thompson also ~~also~~ gave him more questions.

The deposition will resume on 8/19. If Dennis asks all of the questions that I had, then it will be necessary for me to depose Finch. One area that needs to still be covered is with regard to the union: what workers were union members? what union? who was the chief representative? union steward?, etc. Also, Finch indicated that the union contract may have specifically said that the ~~the~~ workers could not have to drink the water from the on-site deep well. This, and several other matters still remain to be explored.

CC: Schaefer  
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B. He.  
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